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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,981	03/08/2002	Marvin S Schwartz	214255605002	4846

7590 06/03/2009
David B Cochran
Jones Day Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

EXAMINER

COBANOGLU, DILEK B

ART UNIT	PAPER NUMBER
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3626

MAIL DATE	DELIVERY MODE
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06/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARVIN S. SCHWARTZ,
DAVID L. ABT,
NATHAN ARTHUR,
CHARLES E. BEAR,
DONALD N. HUFF,
BENJAMIN V. SCROEDER,
STEVEN D. SHABINO AND
JUSTIN L. SHEPARD

Application No. 10/070,981
Technology Center 3626

Mailed: June 3, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 1, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed October 31, 2008 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 22, 25-27, 35, 37-40, 43, 46-48, 50-51, 53-54 are rejected under U.S.C. 103(a) as being unpatentable over Lavin et al., Campbell et al. and further in view of Simborg et al.; and claims 41, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al., Campbell et al., Simborg et al. and further in view of Ramsay et al.; whereas Appellants have not indicated the grounds of rejection of these claims. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on October 31, 2008 defective;
- 2) notify Appellants to file a paper properly addressing the Grounds of rejection of all claims; and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/DAL/

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